HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2396 OF 2004

M/s.Purnata Corporation. ..Petitioner.

Versus.

M/s Maharashtra Paper Company & Anr. ..Respondents.

Mr.Sachin D. Kataria i/b M/s.Gaikwad & Katariya & Associates, for the petitioner.

Mr.D.P.Adsule, APP, for the State.

CORAM: V.M.KANADE,J

DATE: MARCH 14, 2005.

P.C.

1. Heard the learned counsel for the petitioner. This is an application for quashing the complaint filed by the Respondent under section 138 of the Negotiable Instrument Act. The case of the complainant is that the complainant is a director of M/s.Maharashtra Paper Company and he is dealing in the business of supplying papers and other stationery. It is the case of the complainant that as per the purchase order of the accused, the complainant had supplied papers to the accused, delivery of which was accepted by the accused. A cheque was issued for an amount of Rs.1,15,000/- by the accused which on presentation was

dishonoured. Process has been issued. It is submitted by the learned counsel for the petitioner that on instruction, inspection was taken by the accused in the office of Registrar of firms and it transpired that the complainant is not a director of the firm M/s. Maharashtra Paper Company. The said document which is annexed to Exh.C indicates that one Shantilal Bhagwandas Bokaria and Jaykumar Premchand Shah are the partners of the said firm. It is therefore, submitted that since the complainant is not concerned with the said firm, he has no authority to pursue the complaint.

2. It is not possible to accept the said submission of the learned counsel for the petitioner. The issue whether the complainant is or is not a partner of the firm and whether the said complainant's company is a company registered under the Companies Act or as a partnership firm will be decided by the Trial Court, after evidence is led by both parties and this issue cannot be decided at this stage. Keeping this question open, the Writ Petition is accordingly dismissed. Hearing of the complaint is expedited.

(V.M.KANADE,J)